THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13881 of 2007

Dated:02.07.2007

Between:

Suneel Deshmukh.

…PETITIONER

and

The District Collector, Nizamabad, and others.

…RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.13881 of 2007

ORDER:

The petitioner is allegedly owner of land admeasuring Acs.7.16 guntas in survey No.27 situated at Tadgur Village, Madnur Taluq, Nizamabad District. He claims to have succeeded to the property left behind by his grandmother, late Laxmi Bai. Respondents 4 to 6 herein, claiming to be the protected tenants, filed applications before the competent authority under the Andhra Pradesh (Telangana Area) Tenancy and Agricultural lands Act, 1950 (the Act, for brevity). A certificate under Section 38-E of the Act was granted in their favour. Aggrieved by the same, it appears that Laxmi Bai filed an appeal before the District Revenue Officer (DRO), who statedly set aside the orders passed by the Revenue Divisional Officer in fovour of respondents 4 to 6, directing the Tahsildar to conduct enquiry after issuing notice to all the persons interested. The petitioner alleges that after the orders of DRO dated 31.08.1978, he did not receive any notice nor any enquiry was conducted. However, third respondent issued proceedings on 22.03.2007 ordering restoration of possession to respondents 4 to 6. Aggrieved by the same, instant writ petition is filed.

After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General-T), this Court is of the considered opinion that when once a protected tenant is granted ownership certificate under Section 38-E of the Act, an

application filed by him under Section 32 for restoration of possession is a matter of right. In this case, considering the request of respondents 4 to 6 for restoration, third respondent passed orders on 22.03.2007 ordering restoration. If the petitioner is aggrieved by the same, he has a right of appeal under Section 90 of the Act. The petitioner can as well raise all the submissions before the appellate authority. Therefore, this Court is not inclined to go into the question whether it was competent for DRO to exercise appellate authorities while Section 90 confers powers on the District Collector/Joint Collector. In view of the availability of alternative remedy, this Court is not inclined to interfere with the matter.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

02th July, 2007
ghn